

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JEROME VINCENT LEE, JR.,

Plaintiff,

v.

**Civil Action 2:21-cv-4706
Judge James L. Graham
Magistrate Judge Chelsey M. Vascura**

SGT. TUMBLESON, et al.,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff, Jerome Vincent Lee, Jr., an Ohio inmate proceeding without the assistance of counsel, has applied to file a civil action *in forma pauperis*. (ECF No. 1.) Plaintiff's certified trust fund account statement accompanying his application indicates that he currently has \$1,402.23 in his prison trust fund account and that his average monthly deposits for the last six months were in the amount of \$262.96. (*Id.*) Accordingly, Plaintiff has sufficient funds to pay the filing \$402.00 fee required to commence a civil action in this Court, and it is **RECOMMENDED** that Plaintiff's Application to proceed *in forma pauperis* be **DENIED** and that he be **ORDERED** to pay the \$402.00 filing fee **WITHIN 30 DAYS** of such Order if he intends to proceed. It is further **RECOMMENDED** that, if Plaintiff fails to timely pay the \$402.00 filing fee, this action be **DISMISSED WITHOUT PREJUDICE** and without assessing the filing fee.

Plaintiff is further advised that even if he pays the filing fee, his claims could be subject to dismissal under 28 U.S.C. § 1915A given that he has not sufficiently alleged the inadequacy

of the post-deprivation remedies available under Ohio law. *See Parratt v. Taylor*, 451 U.S. 527 (1981), *overruled in part by Daniels v. Williams*, 474 U.S. 327 (1986) and *Hudson v. Palmer*, 468 U.S. 517 (1984).

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

/s/ *Chelsey M. Vascura*
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE